



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Seventeenth day of August Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

Crl.M.P(MD)No.9541 of 2022
in
Crl.A.(MD)No.497 of 2022

SUDHARSAN

... APPELLANT/ACCUSED NO.1

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
ANNA NAGAR POLICE STATION,
MADURAI DISTRICT.

... RESPONDENT/COMPLAINANT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the Sentence and enlarge the petitioner on bail imposed on the appellant by the judgment dated. 22.07.2022 made in S.C.No. 160 of 2019 on the file off the Principal District and Sessions Judge, Madurai.

PRAYER IN CRL A(MD)No. 497 OF 2022:

To call for the records relating to the judgment dated 22.07.2022 made in S.C.No.160 of 2019 on the file of Principal District and Sessions Judge, Madurai and set aside the conviction and sentence imposed against the Appellant and allow the above appeal by acquitting the appellant.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.H.MOHAMMEDIMRAN, Advocate for M/S AJMAL ASSOCIATES, for the petitioner and of MR.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in S.C.No.160 of 2019, dated 22.07.2022, on the file of the learned Principal District and Sessions Judge, Madurai, till the disposal of this Criminal Appeal.



2. The case of the prosecution is that the petitioner had damaged the public road and caused damage to the Government to the tune of Rs.10,000/-.

3. On the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.1226 of 2015.

4. The respondent police, after completing the investigation, has laid a final report for the offence under Section 3(1) of Tamil Nadu Property (Prevention of Damages and Loss) Act, 1992, and the case was taken on file in S.C.No.160 of 2019 on the file of the learned Principal District and Sessions Judge, Madurai.

5. During the trial, the prosecution has examined 7 witnesses as P.W.1 to P.W.7, exhibited 7 documents as Ex.P.1 to Ex.P.7 and marked 1 material object as M.O.1, whereas, the accused have adduced neither oral nor documentary evidence.

6. The learned Principal District and Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, has passed the impugned judgment dated 22.07.2022 convicting the petitioner/first accused for the offence under Section 3(1) of Tamil Nadu Property (Prevention of Damages and Loss) Act, 1992 and sentenced him to undergo one year Rigorous Imprisonment and to pay a fine of Rs.2,500/-, in default, to undergo three months Rigorous Imprisonment. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

7. The learned counsel for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioner has already paid fine amount.

8. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

9. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

10. The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final



considered view that the petitioner herein is entitled to the grant of suspension of sentence.

11. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

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(i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate Court No.VI, Madurai;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the concerned Court on all working days at 10.30 a.m., until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-

17/08/2022

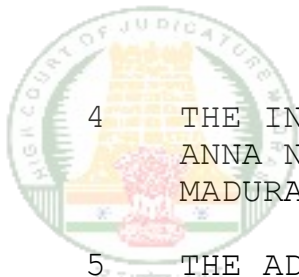
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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
MADURAI.
- 2 THE JUDICIAL MAGISTRATE NO.VI
MADURAI.
- 3 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.



4 THE INSPECTOR OF POLICE
ANNA NAGAR POLICE STATION,
MADURAI DISTRICT.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

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+1. CC to M/s AJMAL ASSOCIATES, SR.No.8652 (I)

ORDER

IN

Crl.M.P (MD) No.9541 of 2022
in

Crl.A. (MD) No.497 of 2022

Date :17/08/2022

csm

PKP/JM/SAR-4/18.08.2022/4P/7C